Section 704 of the Telecommunications Act of 1996, signed into law by President Clinton, deals with the siting of wireless telecommunications facilities. This Section has tied the hands of local communities in endeavoring to safeguard their residents and the environment from the harmful effects of the radiofrequency/microwave radiation emitted from cell towers and small cell antennas on utility/light poles in residential neighborhoods. This has come about because Section 704 has been interpreted to prevent local communities from regulating the placement of these wireless facilities based on environmental effects. "Environmental effects" has been interpreted to include health effects.

"(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions." (emphasis added)

As of August 13, 2021, the phrase "to the extent that such facilities comply with the Commission's regulations concerning such emissions" has formally come into question. Why?

On August 13, 2021, "the United States Court of Appeals for the District of Columbia Circuit ruled in the historic case EHT et al. v. the FCC that the December 2019 decision by the Federal Communications Commission (FCC) to retain its **1996** safety limits for human exposure to wireless radiation [violated the Administrative Procedure Act] and was "arbitrary and capricious." [emphasis added]

"The court held that the FCC had failed to respond to [11,000 pages] of 'record evidence that exposure to RF radiation at levels below the Commission's current [thermal] limits may cause negative health effects unrelated to cancer.' [Negative health effects related to cancer in humans

have been demonstrated in additional peer-reviewed medical research.] Further, the agency demonstrated ‘a complete failure to respond to comments concerning environmental harm caused by RF radiation.’ The court found the FCC ignored numerous organizations, scientists, and medical doctors who called on them to update the limits and the court found the FCC failed to address these issues:

- impacts of long-term wireless exposure
- impacts to children,
- the testimony of people injured by wireless radiation,
- impacts to wildlife and the environment
- impacts to the developing brain and reproduction”

https://ehtrust.org/in-historic-decision-federal-court-finds-fcc-failed-to-explain-why-it-ignored-scientific-evidence-showing-harm-from-wireless-radiation/

As of today, April 9, 2025, the FCC has still not responded to the United States Court of Appeals for the District of Columbia Circuit’s 2021 decision. The FCC has disregarded thousands of peer-reviewed papers by scientists and medical professionals providing evidence that radiofrequency/microwave radiation coming from all wireless devices, such as cell phones, tablets, dect phones, cell towers, small cells on utility/light poles, and Smart Meters, causes biological harm at levels far below the outdated 1996 guidelines, which only considered damage to tissues from heating. The FCC must do its due diligence to protect the public as well as all vulnerable organisms in the natural environment, such as pollinators, birds, plants, and trees, from the harms of now pervasive electrosmog. Surely it is clear that the quantity of man-made radiating devices and infrastructure in the environment (land, sea, and sky) today is exponentially greater than in 1996.

One purpose of the original Communications Act of 1934, which established the FCC, was for “promoting safety of life and property through the use of wire and radio communication.” The

Telecommunications Act of 1996, with its poorly vetted guidelines for human exposure to radiofrequency radiation, ushered in an era of unrestrained deployment of unsafe wireless infrastructure, which has caused untold numbers of people to become ill and disabled. The thoughtfully considered decision of the U.S. Court of Appeals for the D.C. Circuit should have been the wake-up call for the FCC to do its due diligence with respect to human safety and environmental protection. That the FCC has stone-walled the court's decision and refused to remedy this situation is unacceptable.

This docket asks, "Are there existing rules that could give rise to a risk of regulatory capture?" Tragically, the FCC has been and continues to be an agency that has been captured by the industry it is supposed to be regulating. Its fealty has been to the telecom industry rather than to the American population. Here is the treatise that explains this regulatory capture:

Captured Agency: How the Federal Communications Commission Is Dominated by the Industries It Presumably Regulates by Norm Alster, published by the Edmond J. Safra Center for Ethics at Harvard University, available for free here:

https://www.fcc.gov/ecfs/document/105131796169231/1

The docket also asks this:

" [] cost-benefit considerations can be relevant in their own right, such as **where a rule when originally adopted was not grounded in a proper assessment of the relevant costs and benefits of the requirement, or where the initial cost-benefit evaluation was highly uncertain.** We thus broadly seek comment on cost-benefit considerations relevant to our analysis. **Are there existing Commission rules for which the costs exceed the benefits? (emphasis added)**

It should be obvious that the vast costs in negative human health outcomes from decades of reckless placement of wireless

telecommunications facilities were either not considered or not acknowledged when the FCC's inadequate guidelines for human exposure to radiofrequency/microwave radiation were set in 1996 at the time of the Telecommunications Act.

The recent paper by Richard Lear of Brown University and Camilla Rees, Independent Researcher details the dire consequences to public health from decades of lack of regulation by United States agencies. The results of this negligence on the part of the FCC, FDA, and EPA are now documented in "Safety of Wireless Technologies: The Scientific View" Preprint · February 2025.

https://www.researchgate.net/publication/388763046_Safety_of_Wireless_Technologies_The_Scientific_View

In their analysis, Lear and Rees concluded:

"Of the 36 chronic diseases and conditions that more than doubled (1990-2015), the U.S. Navy study [1971] warned us of the connection between wireless radiation and twenty-three of those chronic diseases, predicting what has indeed happened to the health of Americans."

"By ignoring the earlier science, U.S. regulators failed to protect the American people from the dangers of wireless technologies. In doing so, they imposed millions of unnecessary chronic exposure conditions on the American public. By 2015, the 23 diseases the U.S. Navy predicted may have added more than $2 trillion in annual health care costs to the U.S. economy due to their negligence."

The FCC must respond to the decision by the U.S. Court of Appeals for the D.C. Circuit and act to protect the public and the environment from the harmful effects of wireless infrastructure. Please be aware that wireless is not the only or the best way to provide connectivity. Investigate regulations that would encourage innovation in hard-wired technologies, which are not only safer (by not interfering with the bioelectricity of all organisms), but also faster, not vulnerable to hacking, and future-proof (scalable, durable, and not requiring frequent upgrades as wireless does).

There is no time to lose. Do your due diligence! Protect the public and the environment.